

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

JOE ERNEST MITCHELL,)
)
 Plaintiff,)
)
 vs.) No. 4:06-CV-91 (CEJ)
)
JOSEPH R. SOMOGYE, et al.,)
)
 Defendants.)

ORDER

This matter is before the Court on the motion of defendant Thomas Mabrey to dismiss plaintiff's complaint, pursuant to Rule 41(b), Fed.R.Civ.P., for failure to comply with a court order. Plaintiff has not responded to the motion, and the time allowed for doing so has expired.

On July 24, 2006, the Court ordered plaintiff to provide answers to defendant Mabrey's First Interrogatories, and produce documents responsive to defendant's First and Second Requests for Production. Plaintiff was specifically warned that, "Failure to comply may result in the imposition of sanctions, including dismissal of plaintiff's complaint, pursuant to Rule 41(b), Fed.R.Civ.P." Plaintiff was given until August 18, 2006 to provide answers and produce responsive documents. Defendant Mabrey informs the Court that plaintiff has not complied with the Court's order, nor has he sought an extension of time in which to do so.

The plaintiff, without justification or excuse, has failed to provide discovery and has disobeyed the Court's order. The Court finds that plaintiff has effectively abandoned prosecution of his case and dismissal is warranted.

The Court shall separately enter an order of dismissal of plaintiff's complaint with respect to defendant Thomas Mabrey and a judgment in favor of defendant Joseph Somogye, pursuant to the Memorandum and Order dated July 12, 2006.

Accordingly,

IT IS HEREBY ORDERED that the motion of defendant Thomas Mabrey to dismiss [#28] is **granted**.



CAROL E. JACKSON
UNITED STATES DISTRICT JUDGE

Dated this 6th day of September, 2006.